

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on January 29, 2003 at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Sue Dickenson (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Time counters follow testimony.

Committee Business Summary:

Hearing & Date Posted: HB190, 1/21/2003; HB 201, 1/21/2003
Executive Action: HB 133 DO PASS; HB 138 TABLED
HB 251 DO PASS

HEARING ON HB 190**Sponsor:** REP. CINDY YOUNKIN, HD 28, Bozeman**Opening Statement by Sponsor:**

REP. YOUNKIN said this is a comprehensive bill, implementing a lot of voting changes. Significant changes were made by the federal Help America Vote Act (HAVA) of 2001, and HB 190 needs amendments to coordinate. For absentee voting, voters must furnish a birth date which will stay confidential, and now the Voter Information Pamphlet (VIP) must go out three weeks before the election. Another change would provide one cannot run for two offices at once. She provided a fact sheet summarizing proposed amendments.

EXHIBIT(sth19a01)*{Tape: 1; Side: A; Approx. Time Counter: 0 - 9.6}***Proponents' Testimony:**

Janice Doggett, Chief Legal Counsel, Secretary of State, explained the federal mandates on the states regarding provisional voting, notices at polls, and registration. After HB 190 was drafted, election administrators asked for two amendments limiting canvassing preceding elections from three to within seven days, and sending absentee ballots out 30 days preceding elections. Her overview told what this bill takes out of the old law to mesh with federal law. Montana gets \$5-8 million to update equipment and replace punch cards; three million is for Digital Recording Devices (DREs) which are computer touch screens designed for visually impaired or disabled. HAVA requires one per polling place, that's 850 at \$3,000 each, she testified. The bill decreases possible fraud, and increases reasonable requirements for voter identification. They are looking to amend HB 190. Provisional voting would allow walk-ins not on the list, challenged votes will be given more consideration and confidentiality, and a data-sharing base is needed for registration. First-time voters will have to show identification. Military voting requirements mesh with HB 201. An amendment was distributed for HB 201 to be heard next.

EXHIBIT(sth19a02)

Robert Throssel, Montana Association of Clerks & Recorders, said Montana cannot run dual election systems. The federal laws must be blended into our laws. They need more standard procedure. He supports the bill. By taking absentee votes directly to an elections administrator, it will eliminate fraudulent collecting

of absentees. But counties cannot mail the VIP pamphlets until they have the registered voter address list.

Tom Figarelle, Forward Montana, testified in favor for his group, which furthers economic development and educational opportunities for the young. Montana had the lowest turnout for 18-24 year old, in a study he cited.

{Tape: 1; Side: A; Approx. Time Counter: 9.6 - 34.3}

Opponents' Testimony:

Brad Martin, Executive Director, Montana Democratic Party, said he objects to two sections of the bill. The bill reduces by 1/3 the time to access the absentee ballot. Also, an absentee ballot must go directly to the election administrator. Both are obstacles to address a fraud problem which he said he does not see, and which discourages voting.

{Tape: 1; Side: A; Approx. Time Counter: 34.3 - 40.5}

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. ROBERTS told Mr. Martin he has concerns with early voting, 45 days before. Voters may not have information on issues. The 30-day rule limits early participation. **Mr. Martin** said it should increase choices for participation. It is their decision. **REP. ROBERTS** said news articles are more prevalent closer to elections. **Mr. Martin** said the quality of the debate may not improve. Absentee voters know for whom to vote because they are concerned citizens. The issue of access is not a partisan issue. Voters don't want fewer days, some want more.

REP. BROWN asked Ms. Doggett to address **Mr. Martin's** concerns. **Ms. Doggett** said we can now request an absentee ballot 75 days before the election but can only get the ballot 30 days before, along with the VIP.

REP. WINDY BOY asked the sponsor if the rule against running for two positions simultaneously would affect him. Sponsor said it would not; tribal government is sovereign.

REP. DICKENSON asked Ms. Doggett what the original intention was regarding absentee ballot laws. **Ms. Doggett** said the onus was on the voter to show a need for absentee, and now they do not need to demonstrate need. **REP. DICKENSON** asked if they must now hand deliver ballot requests. **Ms. Doggett** said mailing it is okay. She said that the clause was there because people were signing at

county fairs through political parties, who were a third party. Someone else can't hand deliver it but mail is okay. **REP. BECKER** asked her about signing voter ID cards. **Ms. Doggett** said registering by mail is not the same as requesting absentee ballots. **REP. BECKER** asked when the VIPs are written and the answer was that different issues were written up at different time once an issue qualifies for the ballot. The latest date it must be written is about late July, as printing starts in August, versus 45 days before election day is about mid-September.

REP. BALLANTYNE asked **Ms. Doggett** if the US Constitution left the election process to the states. **Ms. Doggett** said there was a debate in Congress about state control but there are still unanswered questions in HAVA about the equal protection issue. **CHAIRMAN BARRETT** asked her, if someone voted and then the candidate died or resigned, would voters get to re-vote. She replied that no one got a second ballot. In some cases ballots had to be reprinted, as provided in the law. Candidates cannot withdraw 85 days before. Walk-ins may vote and they keep the vote separated and secret until they see if the voter was registered.

{Tape: 1; Side: A; Approx. Time Counter: 40.5 - 57.7}

Closing by Sponsor:

REP. YOUNKIN said there are sensitive issues but the bill is not intended to limit anyone's ability to vote. It reduces time in which absentee ballots may be mailed, but lots of information comes out in the two weeks before elections. It eliminates the third parties, since it is inappropriate for a Party to collect requests for absentee ballots. Last election, the Motor Voter act caused Clerks and Records to have to let people vote provisionally. This bill clarifies the law for them. **REP. YOUNKIN** is looking into getting this bill amended.

{Tape: 1; Side: A; Approx. Time Counter: 57.7 - 66}

HEARING ON HB 201

Sponsor: **REP. JENT, HD 29, Bozeman**

Opening Statement by Sponsor:

REP. JENT said HB 201 concerns voting rights of overseas and military absentee voters. He provided Amendment 1 prepared by Ms. Heffelfinger to conform HB 201 to another bill, and which strikes out unintended language. This bill incorporates HAVA and federal requirements, provides accountability, and simplifies MCA.

EXHIBIT(sth19a03)**{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.4}****Proponents' Testimony:**

Janice Doggett, Chief Legal Counsel, Secretary of State, said this bill incorporates federal laws, lifts information out of different places and puts it together in MCA, cleaning it up.

Robert Throssel, Montana Association of Clerks & Recorders, said the bill helps voters and election administrators. He addressed a reduction in amount of time it takes to receive ballots in the mail; the mail can be slow.

{Tape: 1; Side: B; Approx. Time Counter: 8.4 - 15.2}**Opponents' Testimony:** None.**Informational Testimony:** None.**Questions from Committee Members and Responses:**

REP. JACOBSON asked how the federal postcard applications and federal absentee ballots are different from Montana's. **Elaine Gravely, Election Deputy, Secretary of State's office,** answered that Montana has a cardboard postcard, 8x11 size, which both registers and requests an absentee ballot, versus the federal ballots which can be faxed.

REP. ROBERTS asked **REP. JENT** if the average sailor and section officer would have the address of the Secretary of State as the one contact point for voting information. **REP. JENT** said, "Yes, and the information will be on the internet also." **REP. HURWITZ** asked **REP. JENT** to address the time information can be requested in another bill is 75 days. **REP. JENT** was not sure; he tried to make the bills consistent. Ballots can be requested up to noon the day before, and can be received up to 8 am that day. He will put these dates on a chart before the Executive Action. **REP. ROBERTS** told the sponsor not to penalize those making early requests, who may be at an isolated duty station.

REP. BERNIE OLSON asked the sponsor to address Mr. Martin's concerns. The sponsor will have **REP. YOUNKIN** go through the two bills. The Voting Code Commissioner is Greg Petesch; he will do a chart, if necessary, with the amendment.

{Tape: 1; Side: B; Approx. Time Counter: 15.2 - 22.5}

Closing by Sponsor:

REP. JENT thanked them for a good hearing, and said it is important that service members be allowed equal protection of their vote. He said he tried to make the bill as user friendly as possible. There is one change to the amendment, a typographical error.

{Tape: 1; Side: B; Approx. Time Counter: 22.5 - 23.8}

EXECUTIVE ACTION ON HB 133

Motion: **REP. ALAN OLSON MOVED HB 133 DO PASS.**

Discussion:

REP. BERNIE OLSON said HB 133 would make it difficult for GABAs to increase. **REP. BROWN** said to look at the fiscal note cost of \$12 million and said she felt now is not the time; she opposed it. **REP. A. OLSON** urged do pass, and let it be discussed with other education funding bills. **REP. YOUNKIN** asked **REP. JENT** why he did not sign the fiscal note. **REP. JENT** answered it was because he disagreed with it, and there would be a problem if people are not retiring. She asked what the offset was, but he replied he didn't know. **REP. YOUNKIN** asked how they can get that information. **REP. JENT** wanted to work on it until it goes to the Appropriations Committee. He agreed there are a lot of other education bills and said Appropriations Committee needs to see the big picture with this in the mix; he agreed with **REP. A. OLSON's** analysis.

CHAIRMAN BARRETT asked **Ms. Heffelfinger** to provide the update from Mike O'Connor, which **Ms. Heffelfinger** gave as an exhibit and explained. The actuarial evaluation is done every two years, and in the interim they watch the market, but it's just a projection.

EXHIBIT (sth19a04)

EXHIBIT (sth19a05)

REP. DICKENSON, who had returned to the room, asked the sponsor how they can pass it without an increase in property tax. **REP. JENT** said counties do not contribute; it's a state appropriation. **REP. BROWN** said she will oppose. It needs amendments to pass out of committee.

REP. WAGMAN said this will drive up local school budgets; an early-out incentive will cost money. **REP. WAGMAN** urged them to consider an amendment to take administrators out of the bill,

saying they make the highest wages. **REP. LEHMAN** asked **REP. WAGMAN** how they would retain good administrators. **REP. GIBSON** said the intent is to help schools. She urged do pass. **REP. LENHART** said pass it out to the floor to have it in the big picture with other education bills. **REP. DICKENSON** voiced that she supports the bill; it addresses teacher shortages. **REP. WAGMAN** said another bill is in to allow teachers to retire for one year then come back to work in critical areas. **REP. B. OLSON** said the bill begin in 2005. **REP. SMITH** would oppose **REP. WAGMAN's** suggested amendment. **CHAIRMAN BARRETT** said in her district, Dillon has the highest paid teachers. Bringing teachers back from retirement will be at a high cost. She provided exhibit 6, produced by the LFA's office to show what other states are doing with budget problems. **REP. WINDY BOY** referenced California's cutting 2.2 billion or 6% from their budget. **CHAIRMAN BARRETT** said it was for K-12 and their deficit is 23 billion. **REP. GIBSON** said Oregon cut days in the school year to save. Question was called.

EXHIBIT(sth19a06)

Vote: On a roll call vote, motion carried 17-2. **REPS. BROWN and BARRETT** voted no.

{Tape: 1; Side: B; Approx. Time Counter: 23.8 - 51.3}

EXECUTIVE ACTION ON HB 251

Motion: **REP. BROWN** moved **HB 251 DO PASS.**

Discussion: **REP. BROWN** asked **REP. YOUNKIN** who used the gyms, anyway. **REP. YOUNKIN** said few did; parking on campus is a problem. She noted there was no opposition to this bill from clubs; apparently they are not worried about competition. Universities were not charging market rate, it was a subsidized service, and that will be fixed, she said.

CHAIRMAN BARRETT said SB 151 last session was supported by health clubs versus this bill only applied to larger campuses. **REP. ROBERTS** mentioned that Billings put up a bubble for tennis with a stipulation they not compete with private business. **REP. SCHRUMPF** said in Billings, the City Athletic Club was opposed by other clubs. **REP. HURWITZ** asked **CHAIRMAN BARRETT** if this bill speaks to school system gyms; the answer was it applies only to universities.

REP. LEHMAN asked Ms. Heffelfinger if **REP. BALLYEAT**'s bill would nullify the restriction on campuses of less than 3,500 students, such as Western and Tech. **Ms. Heffelfinger** said this repeals the whole law, with no exceptions. **REP. WINDY BOY** asked about Northern, and was assured it is covered in this bill.

REP. WAGMAN said in smaller communities, the private sector clubs may not fill the need. **REP. A. OLSON** said if the bill came back, they could amend it to cover smaller campuses. **REP. BROWN** said they should repeal the whole section and put in something to provide for non-competition, so the bill doesn't come back. **CHAIRMAN BARRETT** said she opposes.

Vote: On a voice vote, **HB 251 DO PASS** motion carried 16-3, with **REP. DICKENSON** voting by proxy. Voting no were **REPS. SMITH, BARRETT** and **WINDY BOY**.

EXECUTIVE ACTION ON HB 138

Motion: **REP. BROWN** moved **HB 138 DO PASS**.

Discussion:

REP. JACOBSON said a possible amendment is not ready. **REP. ALAN OLSON** said he cannot imagine not knowing about school elections; it is in all the newspapers. He said this would be one more hoop to jump through.

Substitute Motion: **REP. JENT** made a substitute motion to **PASS CONSIDERATION OF HB 138 TO NEXT TUESDAY**.

Vote: On a roll call vote, motion failed 9-10. Voting Aye were: **REPS. JENT, BALLANTYNE, BECKER, GIBSON, JACOBSON, ROBERTS, SCHRUMPF**, and **WINDY BOY**, with **REP. DICKENSON** voting aye by proxy.

Discussion:

REP. B. OLSON said this would be too expensive. **REP. BALLANTYNE** said it would be cost-prohibitive for some cities. **REP. BROWN** said she talked with the sponsor about amendments including making the bill apply only to A and AA districts, and about giving three notices within 45 days, but it is unworkable. **REP. A. OLSON** agreed.

Motion/Vote: **REP. YOUNKIN** moved that **HB 138 BE TABLED**. On a roll call vote, motion carried 16-3 with **REPS. JENT, BALLANTYNE, AND REP. DICKENSON** voting NO (**REP. DICKENSON** voted by proxy).

ADJOURNMENT

Adjournment: 10:25 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth19aad)